IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.MC.No. 3868 of 2003()

(C.C.NO.628/2002 ON THE FILE O F JMFC, NO.I, ALUVA)

PETITIONER: 1ST ACCUSED:

POLY, S/O. KURIAN,
AYYAMPILLY HOUSE, THURAVUR VILLAGE, ANGAMALY.

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENTS: STATE/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE CIRCLE INSPECTOR OF POLICE,
ALUVA, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJETH ALI.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.5468/2003

IN CRL.M.C. 3868/2003.

DISMISSED.

4/12/2007 SD/- A.K.BASHEER, JUDGE.

A.K. Basheer, J.

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Crl.M.C.No. 3868 of 2003-C

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Dated this the 4th day of December, 2007.

ORDER

Petitioner who is being prosecuted along with 2 others for an offence punishable under Section 292(2)(a) read with Section 34 IPC before the Judicial Magistrate of First Class, No.I, Aluva has preferred this petition under Section 482 of the Code of Criminal Procedure seeking to quash the above proceedings. It is contended by the petitioner that the charge against him as laid by the Police is wholly unsustainable. It is pointed out that petitioner who has been arraigned as accused No.1 is described in the charge as the owner/proprietor of the establishment by which the obscene books were allegedly printed and published. It is further contended by the learned counsel that M/s. Pen Books which is stated to be under the ownership of the petitioner is a Company and the petitioner in his individual capacity cannot be prosecuted. Various other contentions have also been raised by the petitioner about the manner in which he has been described in the charge. In my view, these are all matters which the trial court has to consider at the appropriate stage. It will be open to the petitioner to urge all his contentions regarding the defects, if any, in the charge laid by the Investigating Agency. The court below shall take an appropriate decision on the contentions that may be raised by the petitioner while pleading for

discharge at the appropriate stage. If a request is made on behalf of the petitioner to grant him exemption from personal appearance, the court below shall consider the same in accordance with law.

The Crl.M.C is closed without considering the merit of any of the contentions raised by the petitioner with liberty to him to raise all his contentions before the trial court as provided under law.

A.K. Basheer
Judge.

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